



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: May 21, 2008
Comment Deadline: June 19, 2008
Corps Action ID #: 2008-01521

The Wilmington District, Corps of Engineers (Corps) has received an application from Mr. Nils Ladenburg seeking Department of the Army authorization to discharge fill material into 5.47 acres of jurisdictional wetlands within a 226.88-acre mixed residential and commercial development, known as Audubon Village, located between Harkers Island Road (SR 1332) and Crow Hill Road (SR 1333), just north of intersection with Straits Road (SR 1335), within the headwaters of a tributary to Whitehurst Creek and South Leopard Creek, in Straits Community, Carteret County, North Carolina.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at www.saw.usace.army.mil/WETLANDS/

Applicant: Nils Ladenburg
4628 N. Croatan Hwy
Kitty Hawk, North Carolina 27949

Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of Section 404 of the Clean Water Act.

Location

The project site (Audubon Village) is located at 34.7429, 76.5585, bordered to the east by Harkers Island Road (SR 1332), to the west by Crow Hill Road (SR 1333), to the north by Goose Bay Lane, and approximately 0.2 mile north of intersection with Straits Road (SR 1335). The 226.88-acre tract is within the headwaters of a tributary to Whitehurst Creek on the east side and South Leopard Creek on the west, in Straits Community, Carteret County, North Carolina.

Existing Site Conditions

The 226.88-acre tract is divided into two tracts. Tract (1) is approximately 205.11 acres and consists mostly of prior converted cropland that is heavily ditched both interiorly and along the perimeter. Tract (2) is approximately 21.77 acres that fronts approximately

1,269 linear feet of Harkers Island Road. The tract has been timbered within the last 10 years. As a result of stumping and land clearing approximately 4 years ago, half of the tract contains thick underbrush with small tree samplings and half with scattered mature trees with underbrush. Approximately 9.43 acres of Tract (2) are jurisdictional wetlands that can be classified as a mixed hardwood flat. The wetland complex is separated into two areas: 1) a 2.62 acre area located along the road frontage and 2) a 6.81-acre area located along the western tract boundary. The wetland areas, located along the central and southern portions of the tract, have scattered canopy tree species of red maple (*Acer rubrum*), sweet gum (*Liquidambar styraciflua*), and red bay (*Persea borbonia*) with a mix of underbrush species. The dominate soil type is listed as Tomotley fine sandy loam, with a small percentage of Deloss fine sandy loam, which both are hydric soils. Water from Tract (2) flows subsurface, with some site sheet flow, in two directions. The majority of the subsurface flow is directed westward to an adjacent perimeter ditch that borders Tract (1); and portions of the Tract (2) flows southeast into the roadside ditch which eventually carries the water to Whitehurst Creek.

Project Purpose

Basic: The basic purpose is to construct a mixed economically viable development of residential housing and commercial shopping center.

Overall: While the residential neighborhood will be developed on Tract (1), a commercial shopping center is proposed within the 21.77-acre Tract (2). The goal of the commercial project is to provide services, such as a grocery store, eating establishments, and other retail stores, for the residential development in Tract (1) and the surrounding area.

Project Description

The proposed action for the shopping center involves placing fill and asphalt into approximately 5.47 acres of jurisdictional wetlands to facilitate the construction of the buildings and parking lot. Approximately 100,000 cubic yards of fill will be used to accommodate the construction, which will be conducted by typical heavy equipment such as bulldozers, excavators, and other land grading equipment. Plans for the shopping center consist of a grocery store, miscellaneous retail stores, water tower site & access, outparcels along the road frontage, and associated parking spaces. The grocery store, water tower and access, most of the retail stores, and a small portion of the parking lot will impact approximately 2.86 acres of wetlands along the western side of Tract (2), while the outparcels are proposing to impact approximately 2.61 acres of jurisdictional wetlands along the eastern boundary. Additionally, wetlands will be permanently filled with the construction of the southeast development access road off Harkers Island Road. This road, impacting <0.1 of an acre, will provide the entrance into the shopping center as well as an access into the residential development. The impact acreage is included in the 5.47 total acres.

The applicant is proposing to compensate for the wetland impacts by preserving the remaining wetlands on the property, which will encompass approximately 3.95 acres located along the western boundary of Tract (2). In addition, the applicant is proposing to make payment into the in-lieu fee N.C. Ecosystem Enhancement Program. This payment will be made at a 1:1 mitigation ratio for 5.47 acres of non-riparian wetland impacts.

It should be noted that our office opened an enforcement action in June 2005 on this property under previous ownership. This enforcement action consisted of the unauthorized mechanized land clearing of approximately 5.0 acres of the subject wetlands to be filled. Site preparation on the property included stumping and bulldozing the jurisdictional areas. No restoration was required and the file was closed on September 16, 2005.

Other Required Authorizations

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. Water Quality Certification may be required from the North Carolina Division of Water Quality.

The applicant has not provided to the Corps, a certification statement that his/her proposed activity complies with and will be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2(b)(2), the Corps can not issue a permit for the proposed work until the applicant submits such a certification to the Corps and the North Carolina Division of Coastal Management and notifies the Corps that it concurs with the applicant's consistency certification.

Cultural Resources

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

Endangered Species

The Corps has reviewed the project area, examined all information provided by the applicant. Based on available information, the Corps has determined pursuant to the Endangered Species Act of 1973, that the proposed project will have no effect on federally listed endangered or threatened species or their formally designated critical habitat.

Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.


Commenting Information

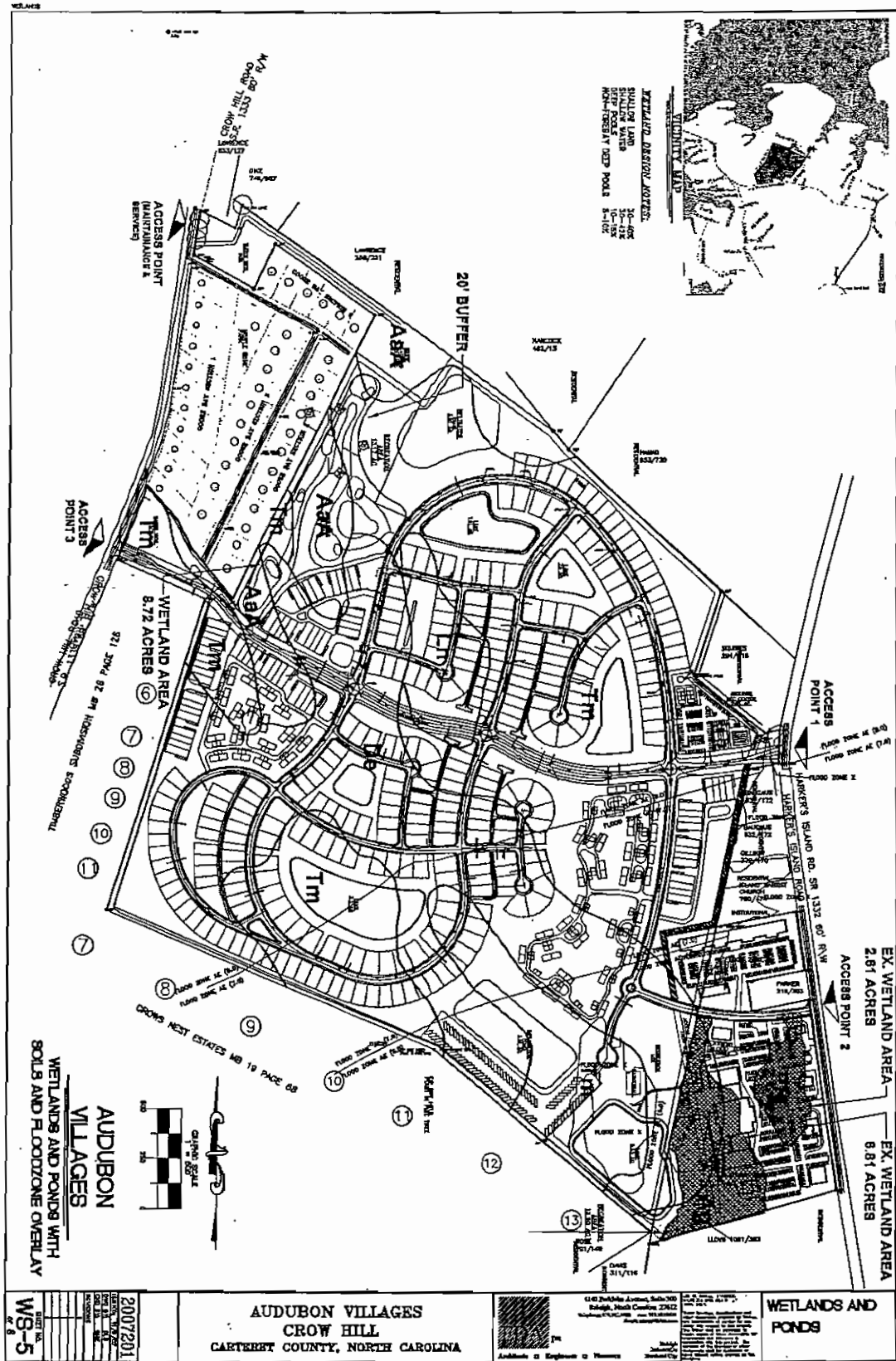
The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidate State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

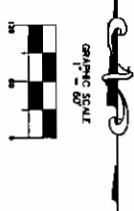
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, June 19, 2008. Comments should be submitted to Mr. Mickey Sugg, Post Office Box 1890, Wilmington, North Carolina 28402-1890, or via internet at mickey.t.sugg@saw02.usace.army.mil . If you have any questions concerning this application, please contact Mr. Sugg at (910) 251-4811.



LG DWD LGMRF CB	Project No. 72075094 Scale AS SHOWN File No. GEC237342 Date JAN. 2008	 <p>114 Beacon Drive Winterville, NC 28590 (252) 351-1600 (252) 351-0802</p>	BORING LOCATION DIAGRAM GEOTECHNICAL ENGINEERING REPORT PROPOSED AUDUBON VILLAGES HARKERS ISLAND ROAD BEAUFORT, NC	FIG. No. 2
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**AUDUBON
VILLAGES**
COMMERCIAL SITE PLAN
EXISTING WETLAND IMPACT

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